

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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**FILE:** B-213667

**DATE:** November 30, 1983

**MATTER OF:** Brown's Industrial Uniforms

**DIGEST:**

1. GAO does not consider small business size status protests since by law, conclusive authority over such matters is vested in the Small Business Administration.
2. GAO does not review affirmative determinations of responsibility except in limited circumstances which are not present in this case.

Brown's Industrial Uniforms protests the award of a contract to Jack Salkin Uniform Co. to furnish trousers under solicitation No. M3-2-84 issued by the Veterans Administration. The procurement was set aside totally for small business-labor surplus areas concerns. Brown's contends that neither Salkin nor its alleged supplier manufactures trousers and that neither has the capacity to do so. Brown's implies that the goods may ultimately be manufactured by a large business.

The protest is dismissed.

Under 15 U.S.C. § 637(b)(6) (1982), the Small Business Administration (SBA) has conclusive authority to determine matters of small business size status for federal procurement purposes. Therefore, our Office does not consider size status protests. See amendment to GAO Bid Protest Procedures, 48 Fed. Reg. 1931 (1983) (to be codified at 4 C.F.R. § 21.3(g)(2)). Brown's properly appealed Salkin's size status to the SBA, which found Salkin and its alleged supplier to be small. Brown's presently has an appeal pending before the SBA Size Appeals Board.

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Brown's challenge of the capacity of Salkin and its supplier to provide the required products relates to the firm's responsibility. This also is not a matter for review by our Office. We will not consider protests against affirmative determinations of responsibility in the absence of a showing of possible fraud or bad faith on the part of government procurement officials or that definitive responsibility criteria in the solicitation have not been applied. Id. to be codified at 4 C.F.R. § 21.3(g)(4). Neither exception applies here.

*Harry R. Van Cleve*  
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Acting General Counsel